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09/894,235	06/27/2001	Asami Shikida	10785/5	5173

7590

04/03/2006

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EXAMINER

JARRETT, SCOTT L

ART UNIT

PAPER NUMBER

3623

DATE MAILED: 04/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/894,235

Applicant(s)

SHIKIDA ET AL.

Examiner

Scott L. Jarrett

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13, 15 and 16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13, 15 and 16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This **Final** office action is responsive to Applicant's amendment filed February 13, 2006. Applicant's amendment amended claims 13 and 15-16, and canceled claims 1-12, 14 and 17-27. Currently claims 13 and 15-16 are pending.

Response to Amendment

2. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action.

Response to Arguments

3. Applicant's arguments with respect to claims 13 and 15-16 have been considered but are moot in view of the new ground(s) of rejection.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "wild fish", obtaining and confirming wild fish growths and habitats, allocating/assigning fishers to fishing grounds based on wild fish forecast data) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

It is noted that the applicant did not challenge the officially noticed fact(s) in the previous office action therefore those statements as presented are herein after prior art. Specifically it has been established that it was old and well known in the art at the time of the invention:

- that the fish (seafood, shellfish, aquaculture, marine, etc.) industry is a supply chain consisting of a plurality of participants such as producers, fishing co-ops, processors, retailers, and the like and that these participants utilize supply chain methods and/or systems to effectively plan and manage their business;

- to provide public access to information, specifically information related to health and/or safety;

- to charge for information access/resources utilized and subsequently invoicing/billing for such access/usage;

- to forecast supply chain information based on historical information wherein such information provides a basis for a plurality of supply chain planning and management decisions; and

- that the fish industry utilizes an array of metrics manage and plan both current and future plans/management of fishing (fisheries, fishing grounds, etc.) including but not limited to catch volume, catch type, catch time/location, catch weight or the like.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 13 and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arnold, Richard, U.S. Patent No. 6,567,792.

Regarding Claim 13 Arnold teaches a method for providing fresh fish distribution support information, wherein information pertaining to fresh fish is collected and processed via a computer communications network and provided as distribution support information via a computer communications network, the method comprising (Abstract; Figures 4, 7):

- guiding fresh fish producers to have them input fish catch data (microdata) via a computer communications network, wherein the fish catch data comprises fishing ground, fishing method, fish species (type, variety) and description data (Column 3, Lines 45-68; Column 4, Lines 1-5; Column 5, Lines 24-34; Column 9, Lines 25-36; Column 13, Lines 53-68; Column 14, Lines 1-11; Figures 1, 2, 5);

- analyzing, by data mining, data based on the fish catch data (microdata) input and collected from fresh fish producers to generate fresh fish information (reports, analytical reports; Column 4, Lines 40-46; Column 5, Lines 60-68; Column 6, Lines 1-7; Figure 7; Column 13, Lines 33-50);

- converting the fresh fish information to database format and recording and storing it on a server as at least part of a fresh fish information database (aggregated data, removing fisherman identifying information, adapt the data, etc.; Column 3, Lines 64-68; Column 4, Lines 1-5 and 53-60; Column 13, Lines 4-10);

- guiding parties desiring fresh fish information to have them input selection conditions for the fresh fish information via a computer communications network (individualized reports, requested analytics, etc. for research institutes, regulators and fishermen; Column 4, Lines 27-51; Column 5, 60-68; Column 6, Lines 1-7; Column 13, Lines 35-50);

- searching (retrieving) for and reading from the fresh fish database the fresh fish information that conforms to the selection criteria (i.e. generating the requested/desired/required reports; Column 4, Lines 27-51; Column 5, 60-68; Column 6, Lines 1-7; Column 13, Lines 35-50); and

- transmitting to the parties desiring fresh fish information the fresh fish information that was read out of the server (i.e. providing the reports and/or raw data; Column 4, Lines 27-51; Column 5, 60-68; Column 6, Lines 1-7; Column 13, Lines 35-50).

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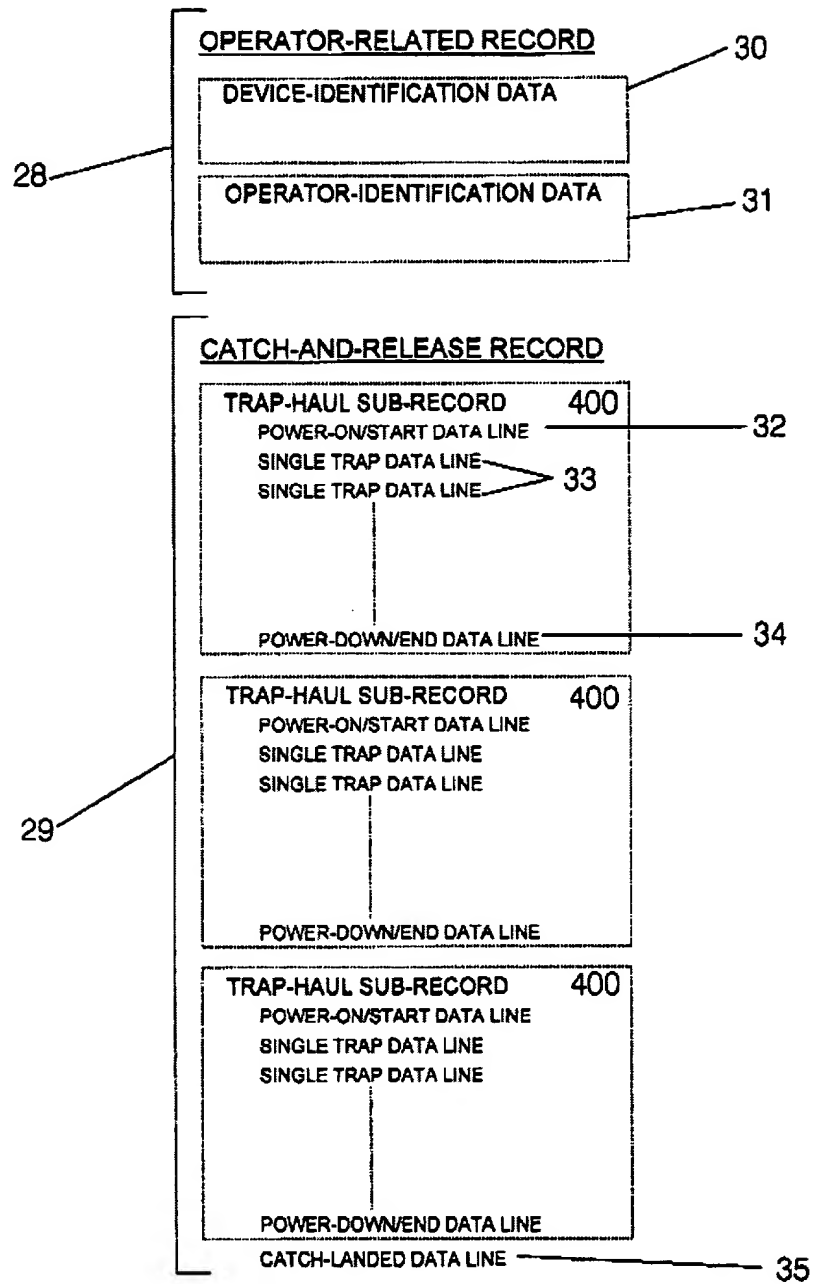


FIG. 4

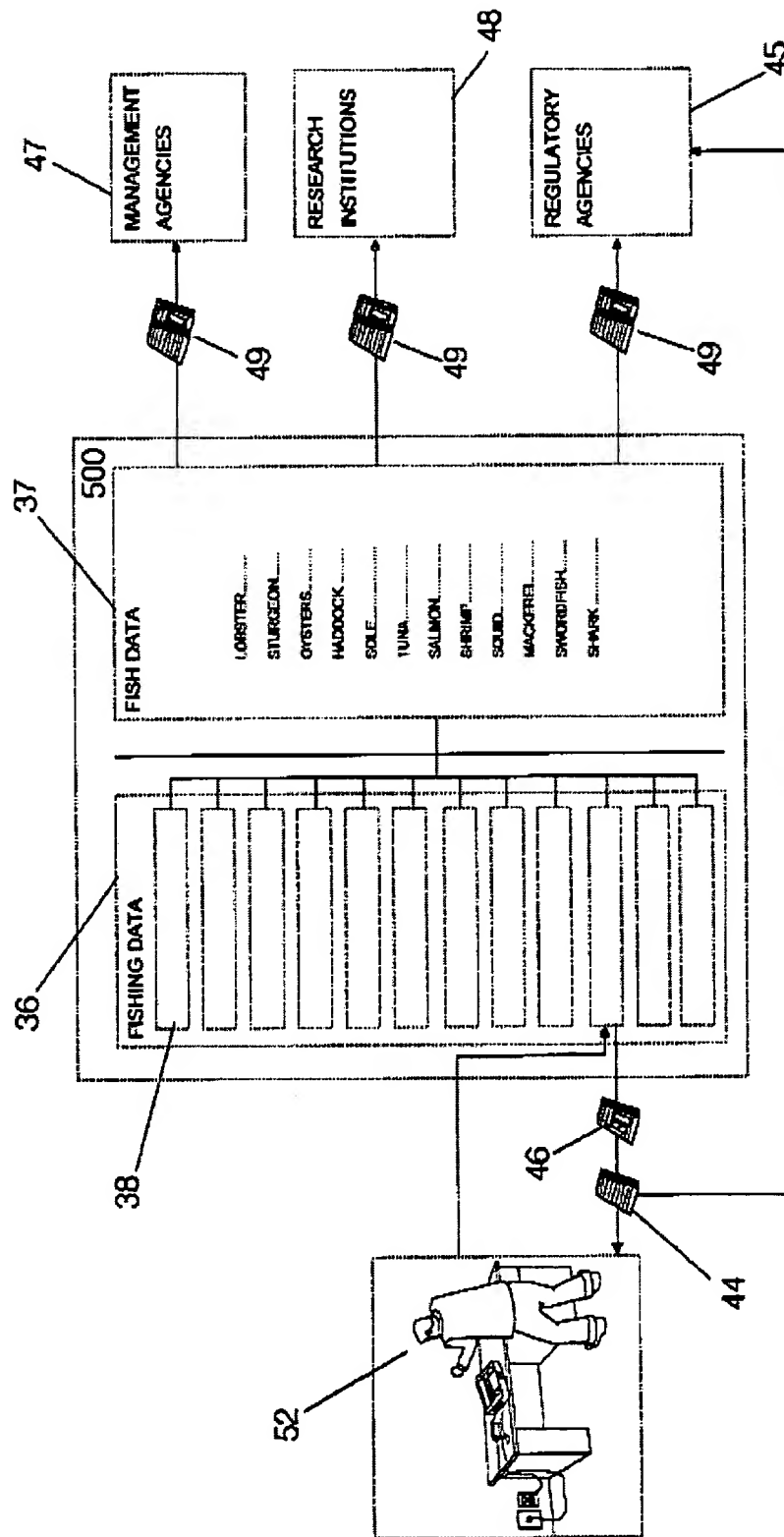


FIG. 7

Arnold does not expressly teach that the fresh fish information comprises forecast data as claimed.

Official notice is taken that forecasting information, in particular supply chain information (e.g. demand, supply, yield, etc.), is old and very well known and that such information provides a basis for a plurality of supply chain planning and management decisions (e.g. inventory level planning, demand planning, etc.).

For example it is well known that fish stock assessments, as part of well-known fishery management practices, are conducted in order to forecast such things as the sustainability of the fish stock.

It would have been obvious to one skilled in the art at the time of the invention that the method for providing fresh fish distribution information as taught by Arnold would have benefited from generating fresh fish forecast data in view of the teachings of official notice; the resultant method enabling users to more effectively manage the sustainability of fisheries.

Further it is noted that the specific labels used to describe the fresh fish data/information, namely "forecast", "fishing ground", "fishing method", "fish species" and "description data" merely represent non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements. The recited method steps would be performed the same regardless of the

specific data. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP 2106.

Regarding Claim 15 Arnold teaches a method for providing fresh fish information wherein the fresh fish data comprises fish catch volume and production site price data (sales information; Column 12, Lines 9-22).

Further it is noted that the specific labels used to describe the fresh fish data/information, namely “fish catch volume” and “production site price forecast” merely represent non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements. The recited method steps would be performed the same regardless of the specific data. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP 2106.

Regarding Claim 16 Arnold does not expressly teach that the searching and reading from the fresh fish information database is subjected to invoice processing as claimed

Official notice is taken that charging (invoicing, billing, etc.) for information/resources accessed and the subsequent invoicing for services/information rendered in order to collect payment for the charges/fess is old and very well known in the art.

It would have been obvious to one skilled in the art at the time of the invention method for providing fresh fish information as taught by Arnold al. would have benefited charging users for using/accessing the fresh fish information and subsequently invoicing/billing those users in view of the teachings of official notice; the resultant method enabling the owner/operator of the method to charge users for accessing/using the fresh fish information.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Hamm, David, The Western Pacific Fishery Information Network (1993) teaches a system and method for collecting, sharing and analyzing a plurality of fresh fish information.

- Media Advisory: Fisheries Technology Company Open House (1999) teaches a commercial system/method for managing fish supply chains.


- Fishing Grounds (2000) teaches a plurality of well-known fisheries management methods/techniques.
- Hilborn et al., Quantitative Fisheries Stock Assessment (1992) teaches well-known collection and analysis of fish information (e.g. fish catch data) methods/approaches for forecasting and other fisheries management purposes.
- Megrey et al., Computers in Fisheries (1996) teaches the utilization of computer systems for collecting, analyzing and sharing fish information.
- King, Michael, Fisheries Biology (1995) teaches well known methods/approaches for fish information (catch data) collection, analysis and forecasting.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott L. Jarrett whose telephone number is (571) 272-7033. The examiner can normally be reached on Monday-Friday, 8:00AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hafiz Tariq can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


3/31/2006


SUSANNA M. DIAZ
PRIMARY EXAMINER

AU3623